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10/801,844	03/16/2004	Thomas A. Follo	6579-0128-1	3109

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EXAMINER

MICHALSKI, SEAN M

ART UNIT	PAPER NUMBER
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3724

DATE MAILED: 08/11/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/801,844

Applicant(s)

FOLLO, THOMAS A.

Examiner

Sean M. Michalski

Art Unit

3725

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 15 June 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-16, 18 and 19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-16, 18 and 19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on _____ is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments filed June 15th 2006 have been fully considered but they are not persuasive. See below.
2. Examiner hereby withdraws the objection to the drawings, since claims 17 and 20 have been cancelled without prejudice.
3. Examiner believes that the amendments to the specification do not constitute new matter.
4. In response to Applicant's arguments against the Perry reference:
 - a. The term integral does nothing to dissuade Examiner from the position that Perry discloses certain 'portions' or sections as originally stated. The term integral does not necessarily mean contiguous or of one body. Furthermore things, which are unitary, contiguous and of one body may still be seen as having *many* portions or sections.

Examiner holds that the original characterization of the Perry reference is correct in every instance. Applicant's arguments are not persuasive.

5. Regarding applicants contention that claim 10 was improperly rejected by Apprille, Jr. et al., Examiner disagrees. While not explicitly stated that Apprille was being used to reject claims 1 and 10, Examiner explicitly pointed out how Apprille met each and every limitation of claim 10, including every limitation of claim 1. The fact that examiner did not state that the rejection using Apprille would have applied to claim 1,

was only because claim 1 had already been rejected, and so the rejection of 10 (including the limitations of claim 1) could be dispensed without treating claim 1 a second time. This argument is not persuasive.

6. Regarding Applicants contention that Perry in view of Gerber should be reconsidered, Examiner disagrees. Applicant has presented no evidence that the combination is erroneous, but submits Examiners original characterization of Perry to be inadequate, which has been treated above.

7. Regarding Applicants contention that Perry in view of Gerber in further view of Wolfe should be reconsidered, Examiner disagrees. Applicant has presented no evidence that the combination is erroneous, but submits Examiners original characterization of Perry to be inadequate, which has been treated above.

8. Regarding Applicants contention that Perry in view of Apprille in further view of Preis should be reconsidered, Examiner disagrees. Applicant has presented no evidence that the combination is erroneous, but submits examiners original characterization of Perry to be inadequate, which has been treated above.

9. Examiners previous rejection of claims 17 and 20 is moot in view of their cancellation.

10. Applicant's arguments relating to the patentability of claim 19 depend also on the previously treated and unpersuasive argument that Perry does not meet claims 1 and 18. The argument that claim 19 is allowable since it depends from claim 18 is not persuasive, since applicants arguments regarding claims 1 and 18 were erroneous and non-persuasive.

11. The References previously applied fully support Examiners rejections and determinations of non-novelty or obviousness of claims 1-16 and 18-19.

12. Claims 2, and 3 are amended to replace the word "portions", with --sections-- which does not alter the previous determinations. The words are synonyms and the claims are therefore fully treated in the Office action dated 2/15/2006.

13. Claim 19 is amended to replace the word "sections" with --portions-- which does not alter the previous determinations. The words are synonyms and the claims are therefore fully treated in the Office action dated 2/15/2006.

14. Claims 4, 5, 7, 8, and 10 are not amended and as such require no further treatment.

Claim Rejections - 35 USC § 102

15. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

16. Regarding claims 1 and 18, Perry (as applied in the Office action of 2/15/2006) still meets all limitations of this claim. In response to the amended claim language, examiner clarifies: Perry discloses an aperture (proximal 92 figure1) defined by the first and second body portions an end of said core and an end of said head assembly. For further clarification refer to the Office action dated 2/15/2006 or examiners comments above.

17. Claims 6, 9 and 11-16 have not been amended, and as such need no further treatment.

A copy of the previous Office action is being hereunto appended for ease of reference.

DETAILED ACTION

Drawings

1. *The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the razor caddy must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.*

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner,

the applicant will be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

Claim Rejections - 35 USC § 102

2. *The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:*

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. *Claims 1, 6 9, 11-16 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Perry (USPN 3,795,979).*

Regarding claim 1, Perry discloses a razor handle assembly comprising: a first handle section having a first body portion (figure 2, 64 on the left); a second handle section having a second body portion (figure 2, 64 on the right), said first and second body portions being mirror images of one another(as seen in figure 2); attachment means for coupling said first and second handle sections together (78 depends into recess 40, and 68 appends into recess 31). This is means plus function language and as such it is being read in light of the specification. The specification recites that any attachment means are acceptable including adhesives, studs (disclosed by Perry; 78 depends into recess 40, and 68 appends into recess 31) and rivets. Perry further discloses a closed end (figure 2, by 31) and an open end (figure 2, by 76, 70) generally opposite said closed end; a head assembly (figure 2, the components near and adjoining 36, 38, 50, 40, 52, 84 and 88) interposed between said first and second body

sections at said open end, said head assembly defining means for releasably retaining a razor cartridge thereon (as seen in figure 1); and a core interposed between said first and second body sections (14, figure 1; 16, 28, 33 and 42, figure 2), said core having an end (33, figure 2) adjacent said closed end.

Regarding claim 6, Perry further discloses a razor handle as defined by claim 1 wherein said first and second handle sections are formed from metal (col.2 lines 59-62).

Regarding claim 9, Perry further discloses a razor handle as defined by claim 1 wherein said core is formed from an elastomeric polymer(col. 2 line 59, 'plastic' is elastomeric polymer).

Regarding claim 11, Perry further discloses a razor handle as defined by claim 1 further comprising a pair of side inserts (figure 13, 208), said side inserts being positioned generally opposite one another (as seen clearly in figures 11 through 13). These side inserts are disclosed in Perry as an alternative embodiment, but it would have obvious to one skilled in the art that the side inserts were not exclusive of the invention as disclosed in figure 1 and therefore could be combined with the invention as disclosed in figure 13 by having the inserts be placed on the first and second razor sections "one coupled to each of said first and second razor sections" (as shown in figure 1) as opposed to a unitary handle section as disclosed in figure 13.

Regarding claim 12, Perry further discloses a razor handle as defined by claim 11 wherein: each of said side inserts defines at least one projection (figure 13, 206) extending outwardly from an inner surface (figure 13, the planar area behind the gripping surface of 208) of said side insert; and wherein each of said projections is

frictionally receivable in a complementarily shaped aperture defined by each of said first and second handle sections (seen in the handle 210 of figure 13 and indicated frictionally receivable by lines drawn from the projections to the handle 210).

Regarding claim 13, Perry further discloses a razor handle as defined by claim 12 wherein each of said side inserts is formed from an elastomeric polymer (col. 6 lines 26-27, 'plastic' is elastomeric polymer).

Regarding claim 14, Perry further discloses a razor handle as defined by claim 1 wherein: said head assembly defines a pair of generally opposed bosses (figure 1, 92) projecting outwardly from side surfaces thereof (figure 2, 92 is received in the slot 44 of the head section); and wherein each of said handle sections includes a mating recess (figure 2, 82) for receiving one of said bosses (92).

Regarding claim 15, Perry further discloses a razor handle as defined by claim 11 wherein each of said side inserts defines a plurality of raised portions (figure 9-13, the bumps are visible on 206) for improving a user's grip on said razor handle.

Regarding claim 16, Perry further discloses a razor handle as defined by claim 1 wherein said core defines a pair of generally opposed, exposed gripping surfaces (#18 figure 1) extending between said first and second handle sections (This is shown in figure 1, gripping surfaces #18 extend between the handle sections).

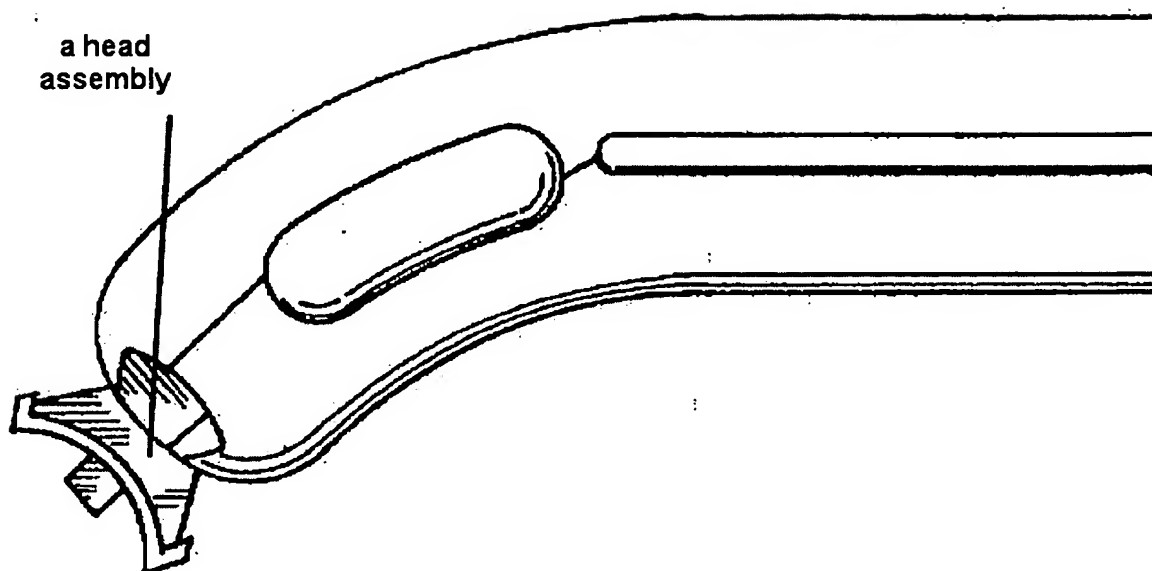
Regarding claim 18, Perry discloses a razor handle comprising: a first metallic handle portion having a first body section (figure 2, 64 on the left); a second metallic handle portion having a second body section (figure 2, 64 on the right), said first and second body sections being mirror images of one another(as seen in figures 1 and 2);

Art Unit: 3725

said first handle section being coupled to and cooperating with said second handle section (figure 2, 78 depends into recess 40, and 68 appends into recess 31) to form a closed end (by 31, figure 2) and a generally opposite open end (by 40, figure 2); an elastomeric plastic core (16, figure 2) positioned between said first and second handle sections and having generally opposed, exposed gripping surfaces (14, figure 1), said core having an end located adjacent to said closed end (33, figure 2); and a head assembly interposed between said first and second body sections at said open end (the components in figure two near and including 40, 36, 38, 44, and 42), said head assembly defining means for releasably retaining a razor cartridge (as shown in figure 1).

4. *Claim 10 is rejected under 35 U.S.C. 102(b) as being anticipated by Apprille Jr. (USPN 5,497,551).*

Regarding claim 10 Apprille discloses a razor handle assembly comprising: a first handle section having a first body portion (the area above 12 in fig. 2); a second handle section having a second body portion (the area below 12 in fig. 2), said first and second body portions being mirror images of one another; attachment means for coupling said first and second handle sections together (rivets, 18, figure 1), so that said first and second handle sections cooperate to form a closed end (the far right in figure 2) and an open end (far left: by the head assembly, figure 2) generally opposite said closed end; a head assembly (see figure below)



interposed between said first and second body sections at said open end, said head assembly defining means for releasably retaining a razor cartridge thereon (col. 3, lines 15-20); and a core interposed between said first and second body sections (figure 1, 12), said core having an end (figures 1 and 2, 12 is shown to extend to the closed end at the far right) adjacent said closed end and further discloses a razor handle wherein said core includes a first core section (figure 9) coupled to a second core section (figure 6). The two sections are coupled because the second core section is formed by being injected around the first core section as described in col.3 lines 55-67.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

Art Unit: 3725

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. *The factual inquiries set forth in Graham v. John Deere Co., 383 U.S. 1, 148*

USPQ 459 (1966), that are applied for establishing a background for determining

obviousness under 35 U.S.C. 103(a) are summarized as follows:

- 1. Determining the scope and contents of the prior art.*
- 2. Ascertaining the differences between the prior art and the claims at issue.*
- 3. Resolving the level of ordinary skill in the pertinent art.*
- 4. Considering objective evidence present in the application indicating obviousness or nonobviousness.*

7. *Claims 2-4, and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry (USPN) in view of Gerber, Jr. et al. (USPN 4,470,327).*

Regarding claim 2, Perry teaches all the elements of the claimed invention (see section 3 paragraph 2 above) except for an aperture in the second handle portion. Perry has studs that do not depend into the opposing handle portion. Gerber, Jr. et al. teaches the use of at least one stud (figure 1, 20) projecting outwardly from one of the handle portions, an aperture in the opposing handle portion (figure 1, 23) and fastening means (col. 2 lines 39-41). This claim contains means plus function language and as such it is being read in light of the specification. The specification recites that any attachment means are acceptable including adhesives, studs and rivets. It would have been obvious to one skilled in the art at the time the invention was made to combine the teachings of Perry to the teachings of Gerber, Jr. et al. and use a rivet to attach the handle portions of Perry to one another. The stud is a functional equivalent of the structure used by Perry, and is a matter of simple design choice. The motivation to

combine is that at least one stud is shown to be effective at joining handle portions in Gerber, Jr. et al.

Regarding claim 3, Perry teaches all the elements of the claimed invention (see section 7 paragraph 2 above) except for the use of three studs and three apertures in place of one. Gerber, Jr. et al. teaches using three studs (figure 1, 20) and three apertures (figure 1, 23). It would have been obvious to one skilled in the art at the time the invention was made to combine the teachings of Perry with the teachings of Gerber, Jr. et al. and use three studs to attach the handle portions of Perry to one another. The stud is a functional equivalent of the structure used by Perry, and is a matter of simple design choice. The motivation to combine is that three studs are shown to be effective at joining handle portions in Gerber, Jr. et al.

Regarding claim 4, Perry teaches all the elements of the claimed invention (see section 7 paragraph 2 above) except for the fastening means for securing the end of said stud, wherein said means includes a rivet. Gerber, Jr. et al. teaches using three rivets (figure 1, 20) in countersunk rivet-holes (figure 1, 23). It would have been obvious to one skilled in the art at the time the invention was made to combine the teachings of Perry with the teachings of Gerber, Jr. et al. and use three rivets to attach the handle portions of Perry to one another. The rivet is a functional equivalent of the structure used by Perry, and is a matter of simple design choice. The motivation to combine is that three rivets are shown to be effective fastening means for the ends of studs in Gerber, Jr. et al.

Regarding claim 7 Perry teaches all the elements of the claimed invention (see section 3; paragraph 2 and 3 above) except for the use of die cast metal for the handle portions. Gerber Jr. et al. teaches the use of "cast aluminum" for handles (col. 2, lines 50-52). The word 'cast' has the exact same meaning as 'die cast', and aluminum is a metal well known in the art. Gerber, therefore, teaches the use of "die cast metal" for handles. It would have been obvious to one skilled in the art at the time the invention was made to combine the teachings of Perry with the teachings of Gerber, Jr. et al. and use die cast metal, instead of just 'metal', in the handle portions of Perry. In addition, the method of forming the handle is not relevant to the issue of patentability of the device itself. Therefore this limitation is not given patentable weight.

8. *Claim 5 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Gerber, further in view of Wolfe (USPN 4,184,248).*

Regarding claim 5, Perry in view of Gerber teaches all the elements of the claimed invention (see section 7 above) except for the use of an adhesive as the above referenced fastening means. Wolfe teaches studs "secured therein by one or more additional rivets 28, although those skilled in the art will recognize that other means, such as a suitable adhesive, may be used for this purpose". In the same problem solving area, It would have been obvious to one skilled in the art to modify Perry and incorporate the teaching of Wolfe in order to provide for securing the portions of handle together. The motivation to combine is that adhesive prevents relative movement of the handle sections to the section there-between.

9. *Claim 8 rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Apprille Jr. et al., in further view of C. G. Preis et al (USPN 3,071,857). Perry discloses every component of the disclosed invention (see section 3 paragraph 2) except the use of at least three rivets to join the first and second handle sections together, with at least one rivet extends through the head assembly and at least one other rivet extends through a core interposed between said first and second handle sections.*

Apprille Jr. et al. teaches the use of at least three rivets (18, figure 1), and the use of at least one rivet (all of 18, figure 1) to extend through the core section(12, figure 6).

Preis et al. teaches the use of at least one rivet to extend through the head assembly between two handle portions (figure 3, 15 is a rivet; figure 1 shows the head assembly interposed between two handle portions; figure 6 shows the rivet extending through the head assembly in a cross sectional view).

In the same field of invention, it would have been obvious to one skilled in the art to modify the design of Perry to incorporate the teachings of Apprille Jr. et al. to join handle portions together using at least three rivets, at least one of which being inserted through the core. The motivation to combine is that rivets are more secure coupling devices. It would have been obvious to one skilled in the art at the time of the invention to further modify the design of Perry in view of Apprille Jr. et al. to incorporate the teachings of Preis et al. that at least one rivet should be inserted through the head

assembly. The motivation to combine is to provide a more secure coupling for the head assembly.

10. *Claims 17 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Lobry, Claude (French Patent 2,428,992). Perry discloses every aspect of the disclosed invention, except the "aperture bounded by said first and second handle sections, an end of said core, and an end of said head assembly, said aperture being adapted to engage at least one extension projecting outwardly from a razor caddy, thereby releasably coupling said razor handle to said razor caddy". Lobry teaches an aperture (figure 4, 6) bounded by said first and second handle sections (to the right and left of 6, figure 4), an end of said core (the area below 6, figure 4), and an end of said head assembly (the area above 6, figure 4), said aperture being adapted to engage at least one extension projecting outwardly from a razor caddy (as demonstrated in figure 4), thereby releasably coupling said razor handle to said razor caddy (the cylinder behind the razor in figure 4). In the same field of invention, it would have been obvious to one skilled in the art at the time the invention was made to apply the aperture taught by Lobry to the razor of Perry. The motivation to combine is to provide a way to releasably retain a razor on a caddy.*

11. *Claim 19 is rejected under 35 U.S.C. 103(a) as being unpatentable over Perry in view of Apprille Jr. et al.*

Regarding claim 19, Perry teaches all the aspects of the claimed invention (see section 3 and 7 paragraph 2 especially) except for the semi-perpendicularity of the handle portion gripping surfaces to the insert (core) gripping surfaces. Apprille Jr. et al.

teaches using gripping surfaces perpendicular to one another, but not the use of insert strips. The perpendicular gripping surfaces in Apprille are unitary, but obscured by the handle portion to provide user contact only in an approximately perpendicular fashion (figure 1, 12 is the large bumpy section in the center, as well as the small area projecting from the right and left of the handle; this is shown as well in figure 2). In the same field of invention it would have been obvious to one skilled in the art at the time of the invention to combine the teachings of Perry with the teachings of Apprille Jr. et al. to provide the razor handle according to Perry with gripping surfaces perpendicular to one another as taught by Apprille. The motivation to combine is to provide the user with a "comfortable and pleasing grip" as taught by Apprille.

Conclusion

18. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Sean M. Michalski whose telephone number is 571-272-6752. The examiner can normally be reached on M-F 7:30AM - 3:30PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Boyer Ashley can be reached on 571-272-4502. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SMM



BOYER D. ASHLEY
SUPERVISORY PATENT EXAMINER